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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/600,832 07/21/00 GIEFER

A 67526

023872  
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PM82/0927

EXAMINER

LUONG, V

ART UNIT

PAPER NUMBER

3682

DATE MAILED:

09/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/600,832

Applicant(s)

GIEFER

Examiner

Luong

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/21/00
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

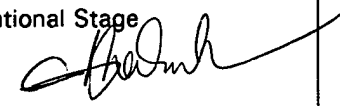
- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/21/00 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

  
Vinh T. Luong  
Primary Examiner

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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1. Applicant's Preliminary Amendment, substitute specification and abstract filed on July 21, 2000 have been entered.

2. The drawings are objected to under 37 CFR 1.84 because:

(a) the drawings should show the plane upon which a sectional view such as Fig. 4 is taken; and

(b) each part of the invention such as: (1) the kinematics in claim 1; (2) the elevated edge beads in claim 23; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) the slide rails in claim 29; (6) two openings in claim 30; (7) the signal transmitters and receivers in claim 32; (8) the permanent magnets and Hall sensors in claim 33; and (9) two deflection axes in line 8 on page 7 of the substitute specification should be designated by a referential numeral or character.

Correction is required.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features such as: (1) the kinematics in claim 18; (2) the elevated edge beads in claim 23; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) the slide rails in claim 29; (6) two openings in claim 30; (7) the signal transmitters and receivers in claim 32; and (8) the permanent magnets and Hall sensors in claim 33 must be shown or the features canceled from the claims. No new matter should be entered.

The drawings do not show too numerous claimed features to point out specifically. Applicant is respectfully suggested to comply with the requirements under 37 C.F.R. 1.83(a) or to cancel the unillustrated features from the claims.

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4. The listing of references in the specification (e.g., page 1) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

5. The references cited in the Search Report of applicant's PCT Application No. PCT/DE 99/03704 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action.

6. The disclosure is objected to because of the following informalities:

(a) the Brief Description of the Drawings should describe the plane upon which a sectional view such as Fig. 4 is taken; and

(b) each part of the invention such as: (1) the kinematics in claim 18; (2) the elevated edge beads in claim 23, and line 1 on page 8 of the substitute specification; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) slide rails in claim 29; (6) two deflection axes in line 8 on page 7 of the substitute specification; (7) the fitting hole in line 7 on page 9 of the substitute specification; (8) the signal transmitters and receivers in claim 32; and (9) the permanent magnets and Hall sensors in claim 33 should be designated by a referential numeral or character.

Appropriate correction is required.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 18-34 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant claims, *inter alia*, the following claimed features: (1) the kinematics in claim 1; (2) the elevated edge beads in claim 23; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) the slide rails in claim 29; (6) two openings in claim 13; (7) the signal transmitters and receivers in claim 32; and (8) the permanent magnets and Hall sensors in claim 33. However, the drawings do not show these claimed features. It is unclear as to how applicant makes/uses: (1) the kinematics in claim 1; (2) the elevated edge beads in claim 23; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) the slide rails in claim 29; (6) two openings in claim 30; (7) the signal transmitters and receivers in claim 32; and (8) the permanent magnets and Hall sensors in claim 33.

9. Claims 21 and 33 are objected to because of the following informalities: the claims contain grammatical or typographical error, e.g., "one of a pulley . . . or a deflecting shaft" in claim 21 should have been "one of a pulley . . . and a deflecting shaft"; and "hall sensors" in claim 33 should have been "Hall sensors." Appropriate correction is required.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 18-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

No antecedent basis is seen for the terms such as "the transmission" in claim 1, and "them" in claims 32 and 33.

It is unclear which structures define the claimed elements such as: (1) the kinematics in claim 18; (2) the elevated edge beads in claim 23; (3) the elastic louver portion in claim 27; (4) the plurality of parts in claim 28; (5) the slide rails in claim 29; (6) two openings in claim 30; (7) the signal transmitters and receivers in claim 32; and (8) the permanent magnets and Hall sensors in claim 33.

Applicant is respectfully urged to identify each claimed element with reference the drawings.

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 18-21, 24, 26-29, 31 and 34, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Andronis (DE 197 28 548 A1 cited in the Search Report of applicant's PCT application).

Regarding claim 18, Andronis teaches a motor vehicle transmission shifting device slot cover, the shifting device having a selector lever 16 and kinematics for transmitting the selection movements to the transmission and at least one shift gate 3 (Fig. 1), the slot cover comprising:

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a movable louver 4 which covers the at least one shift gate 3, said louver 4 having at least one opening 15, 19 (Fig. 2) for the passage of the selector lever 16, said louver 4 being an endless band forming a *closed* loop (Fig. 4);

a louver guide 39-42 for guiding the movable louver 4.

Regarding claim 19, said louver guide has at least one deflecting element 39-42.

Regarding claim 20, said at least one said deflecting element 39-42 has a curved deflecting surface.

Regarding claim 21, said at least one said deflecting element 39-42 is a pulley having a deflecting axis or a deflecting shaft (Fig. 4).

Regarding claim 24, said deflecting element 39-42 is arranged within said louver closed loop (Fig. 4).

Regarding claim 26, said louver guide 39-42 includes a support structure 44, said deflecting element 39, 40 being mounted elastically to said support structure 44.

Regarding claim 27, said louver comprises an elastic louver portion 14 having elastic properties, at least in the circumferential direction of the closed-loop, said elastic louver portion 14 being provided over at least a part of a length of said louver (Fig. 4).

Regarding claim 28, said louver comprises a plurality of parts 14, 15, and 3 (Fig. 4).

Regarding claim 29, said louver guide includes a support structure 44 with slide rails 45 (Fig. 6) arranged laterally and engaged by said louver for guiding said louver.

Regarding claim 31, see a cover plate 2 with the shift gate 3 provided for the selector lever 16 (Fig. 4).

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Regarding claim 34, see a cover plate 2, said louver guide being moveable in relation to said cover plate 2 at right angles to the direction of movement of the louver.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 18-21, 24, 30, 31 and 34, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hildebrand et al. (US Patent No. 4,566,399 cited in applicant's Search Report).

Regarding claim 18, Hildebrand teaches a motor vehicle transmission shifting device slot cover, the shifting device having a selector lever 1 and kinematics for transmitting the selection movements to the transmission and at least one shift gate 4 (Fig. 4), the slot cover comprising:

a movable louver 2 which covers the at least one shift gate 4, said louver 2 having at least one opening 12 and 3 (Fig. 4) for the passage of the selector lever 1, said louver 2 being an endless band forming a *closed* loop (Fig. 4);

a louver guide 10, 10' for guiding the movable louver 4.

Regarding claim 19, said louver guide has at least one deflecting element 10, 10'.

Regarding claim 20, said at least one said deflecting element 10, 10' has a curved deflecting surface.

Regarding claim 21, said at least one said deflecting element 10, 10' is a pulley having a deflecting axis or a deflecting shaft (Fig. 4).



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Regarding claim 24, said deflecting element 10, 10' is arranged within said louver closed loop (Fig. 4).

Regarding claim 30, said louver 2 has two openings 3 and 12.

Regarding claim 31, see a cover plate 6 with the shift gate 4 provided for the selector lever 1 (Fig. 4).

Regarding claim 34, see a cover plate 6, said louver guide 10, 10' being moveable in relation to said cover plate 6 at right angles to the direction of movement of the louver 2.

16. Claims 22, 23, 25, 32, and 33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action.

17. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Richmond (louver 22), Nurse (louver 24), Japanese Utility Model # 6-137,425 (Fig. 4), Takeuchi (Fig. 5), Murakami (Fig. 5), and Kovach et al. (Fig. 2).

19. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-7687. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which

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applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office (Fax No. (703) 305-7687) on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Luong whose telephone number is (703) 308-3221. The examiner can normally be reached on Monday-Thursday from 8:30 AM EST to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. The fax phone number for this Group is (703) 305-7687. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Luong

September 24, 2001



Vinh T. Luong  
Primary Examiner